IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

CRP.No. 544 of 2007()

AGAINST THE ORDER DATED 15/03/2007 IN EP.414/04 IN LAR.27/1994 of SUB COURT, KOZHIKODE

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REVN. PETITIONER: RESPONDENT/JUDGMENT DEBTOR

THE SECRETARY,
K.S.E.B., VYDYUTHI BHAVAN, PATTOM,
THIRUVANANTHAPURAM.

BY ADV. SRI.C.K.KARUNAKARAN, SC FOR KSEB

RESPONDENT: DECREE HOLDER

KUNNEL SEBASTIAN, S/O. DEVASIA,
P.O.CHEMBUKADAVU, KODANCHERY AMSOM, KOZHIKODE.

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 07/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Order on IA 1389/07 in CRP 544/2007

DISMISSED.

SD/- M.N.KRISHNAN,JUDGE.

7/11/2007

M.N.Krishnan, J.

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C.R.P.No.544 of 2007

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Dated this the 7th day of November, 2007.

ORDER

This Civil Revision Petition is preferred for setting aside the order passed by the subordinate Judge, Kozhikode in E.P.No.414 of 2004 in L.A.R.No.27 of 1994. The order is to the effect that the calculation statement is filed to issue fresh attachment order. It is aggrieved by that decision, the Kerala State Electricity Boards has come up in revision. Respondent served, but he has not chosen to enter appearance.

2. Grievance of the revision petitioner is that the court simply accepted the statement filed by the decree holder without looking into the correctness of the same and thereafter had issued the order of attachment. The bone of contention is that the decree holder is only entitled to get simple interest and that the income tax, etc. has to be deducted and it is further submitted that the court has not applied its mind to the decision reported in **State of Kerala** v. **Mariyamma** - 2005 (1) K.L.T. 173. Therefore, from the order of the court also it is not clear on what basis the court had ordered attachment. The court should have found out the correctness of the amount due and should have arrived at a decision whether further amount is due to the decree holder and thereafter should have proceeded to attach the

property.

3. Nothing is clear from the order and therefore this court is only to set aside the order and sent back the matter to the Executing Court for fresh consideration. I do so. I direct the revision petitioner herein to file a detailed statement to show what is the correct amount due to him and whether there is any amount further to be deposited. The court can also permit the decree holder to file a statement and thereafter consider the contentions of the parties and arrived at a figure regarding the amount due to the decree holder and then proceed in accordance with law. Revision petitioner is directed to appear before the court below on 5.12.2007. Since the decree holder has not appeared before the court in spite of notice, the court may fix a date of appearance for him and thereafter proceed in accordance with law.

Civil Revision Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

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